

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 36120 of 2004(Y)

PETITIONER:

**R.MANOCHARAN, S/O.RAMA RAJ, BETHEL HOUSE,
MILK CHILLING PLANT ROAD, MUNNAR DISTRICT IDUKKI.**

BY ADV. SRI.K.REGHU KOTTAPPURAM

RESPONDENTS:

- 1. THE MUNNAR GRAMA PANCHAYATH,
REP. BY THE SECRETARY, MUNNAR GRAMA PANCHAYATH,
MUNNAR, DISTRICT IDUKKI.**
- 2. THE TAHSILDAR, DEVIKULAM TALUK,
DEVIKULAM, IDUKKI DISTRICT.**
- 3. THE VILLAGE OFFICER, KANNAN DEVAN HILLS
VILLAGE, MUNNAR, IDUKKI DISTRICT.**

**BY ADV. SRI.JOICE GEORGE
GOVERNMENT PLEADER SRI.K.J.MOHAMMED ANZAR
SPECIAL GOVT.PLEADER SRI.D.ANIL KUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11/06/2007 ALONG WITH W.P.C.NO.14146/07. THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX IN W.P.C.NO.36120/04

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF THE TITLE OF THE PROPERTY VIDE PATTA NO.364 DTD. 25-5-1999 ISSUED BY THE TAHSILDAR, DEVIKULAM
EXT.P2	TRUE COPY OF THE TAX RECEIPT UNDER THANDAPERU NO.391 DTD. 15-7-99
EXT.P3	TRUE COPY OF THE POSSESSION AND OWNER SHIP CERTIFICATE ISSUED BY R3
EXT.P4	TRUE COPY OF THE BUILDING PERMIT DTD. 25-7-04
EXT.P5	TRUE COPY OF THE RECEIPT IN EVIDENCE OF PAYMENT OF PERMIT FEE
EXT.P6	TRUE COPY OF THE STOP MEMO NO.663/04 DTD.8-12-04

/True Copy/

PA to Judge.

K. M. JOSEPH, J.

W.P.C. NOS. 36120/04 Y & 14146/07H

Dated this the 11th June, 2007

JUDGMENT

Petitioner in both the Writ Petitions is one and the same person. W.P.(C) No.36120/04 is filed challenging Ext.P6 and seeking a declaration that the third respondent has no legal authority to issue Ext.P6 Stop Memo in view of the construction of the building being carried out under Ext.P4 Permit. Other prayers also are there. Case of the petitioner, in brief, is as follows:

Petitioner is the owner in possession in respect of seven cents of land covered by Ext.P1 Patta, Ext.P2 land tax receipt and Ext.P3 ownership Certificate. Ext.P4 is the building Permit relied on by the petitioner to support construction of a building in the seven cents of land. Ext.P5 evidences payment of fee. Petitioner approached this Court by filing W.P.(C) No.36120/04, feeling aggrieved by Ext.P6 Stop Memo issued by the third respondent Village Officer dated 8.12.2004 whereby

the petitioner was directed to stop the construction. W.P.(C) No.14146/07 is directed against Ext.P9 which is again another Stop Memo issued by the Village Officer. Petitioner relies on the same documents. In W.P.(C) No.36120/04, a Counter Affidavit is filed by the second respondent Tahsildar, inter alia, taking the stand that the action is justified in view of the provisions of K.D.H. (Resumption of Lands) Act, 1971 and K.D.H. (Reservation and Assignment of Vested Lands) Rules, 1977. According to the respondent, on verification of the L.A. File No.75/99 issued in favour of the petitioner, it is seen that an extent of seven cents of land in Survey No.212 was assigned under the provisions of the Kerala Land Assignment Rules, which is inapplicable. According to the respondent, the said Patta was issued by the Deputy Tahsildar and it was issued without giving proper authority. The L.A. Files issued from 1999 are under re-verification by the RDO, Devikulam, and all the L.A. Files issued in K.D.H. Village are under the enquiry by

an Expert Committee headed by the Secretary, Land Board and Vigilance Wing of Police Department. It is stated that the right of the petitioner could be established only after the enquiries going on with reference to the Pattas issued in the Village has been completed and a decision taken by the Government. It is stated that the Panchayat has not sought for No Objection Certificate from the Government before issuing building permit to the petitioner. It is again reiterated that the petitioner's right over the property could be established only after completion of the enquiry and a decision taken by the Government.

2. Heard the learned counsel for the petitioner, learned standing counsel for the Panchayat besides the learned Government Pleader. Learned Government Pleader would submit that the enquiry into the genuineness of the petitioner's Patta as contemplated in the Counter Affidavit is not yet over according to the information and in such circumstances, the Stop Memo should not be interfered with. I see force in the

contention of the respondent that the Stop Memo issued to the petitioner in such circumstances, should not be interfered with and the petitioner cannot be permitted to continue the construction in view of the fact that the enquiry is still going on. Counsel for petitioner submits that petitioner will co-operate with the enquiry. It is open to the petitioner to produce any material to show that the Patta issued in his favour is legal and regular. Counsel for petitioner will also submits that while the petitioner will not continue with the construction till the enquiry is over, he apprehends that the construction already effected may be demolished. I feel that till the enquiry is over, neither the petitioner should be allowed to carry on further construction, nor should the building already constructed be demolished. Accordingly the Writ Petitions are disposed of, holding that the Stop Memos issued are not liable to be interfered with as of now and that the enquiry in regard to the Patta of the petitioner be completed at the earliest, giving full opportunity to the petitioner

to produce such materials as he chooses to produce in support of his claim and further recording the submission of the petitioner that he will not carry out any further construction as prohibited in the impugned Stop Memo. It is further directed that the construction already made shall not be demolished till the enquiry is completed.

K. M. JOSEPH, JUDGE

kbk.